

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 383

Introduced by Senator Wieckowski

February 24, 2015

An act to amend Section 430.30 of the Code of Civil Procedure, relating to civil procedure.

LEGISLATIVE COUNSEL'S DIGEST

SB 383, as amended, Wieckowski. Civil actions: objections to pleadings.

Under existing law, a party in a civil action may object to a complaint, cross-complaint, or answer by demurrer if the ground for the objection appears on the face of the pleading or is from a matter of which the court must or may take judicial notice. If the ground for the objection does not appear on the face of the pleading, existing law permits the objection to be taken by answer. Existing law permits a party objecting to a complaint or cross-complaint to demur and answer at the same time.

~~This bill would make a technical, nonsubstantive change to these provisions.~~

This bill would require a party to meet and confer with an opposing party, as specified, before filing a demurrer. This bill would permit a party who is unable to fulfill this requirement to file a declaration with the court evidencing his or her good faith attempt to meet and confer, and it would require the court, upon receipt of a timely declaration demonstrating good cause, to grant a 30-day extension to the filing party to file a responsive pleading. This bill would also permit a court to grant an additional extension of time upon a showing of good cause.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 430.30 of the Code of Civil Procedure
2 is amended to read:
3 430.30. (a) If a ground for objection to a complaint,
4 cross-complaint, or answer appears on the face thereof, or from
5 any matter of which the court is required to or may take judicial
6 notice, the objection on that ground may be taken by a demurrer
7 to the pleading.
8 (b) If a ground for objection to a complaint or cross-complaint
9 does not appear on the face of the pleading, the objection may be
10 taken by answer.
11 (c) A party objecting to a complaint or cross-complaint may
12 demur and answer at the same time.
13 (d) (1) *Before filing a demurrer, a party shall meet and confer,*
14 *in person or by telephone, with the opposing party who filed the*
15 *pleading subject to demurrer.*
16 (2) *A party who is unable to file a timely demurrer due to a*
17 *failure to meet and confer may, within the time specified in Section*
18 *430.40, file a declaration stating that he or she made good faith*
19 *attempt to meet and confer with the opposing party.*
20 (3) *Upon receipt of a timely declaration demonstrating good*
21 *cause pursuant to paragraph (2), a court shall grant the filing*
22 *party a 30-day extension to file a responsive pleading. A court*
23 *may grant an additional extension of time upon a showing of good*
24 *cause.*

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